

Overview of Opioid Settlement Funds and the Virginia Opioid Abatement Authority

Sponsored by the
Virginia Institute of Government
December, 2022

Opioid Litigation involving States and state subdivisions

- ✓ In late 2017 a federal judicial panel consolidated all federal opioid related litigation into a single multi-district litigation (MDL).
- ✓ Has been described as the most complex civil case in US history.

Virginia's Participation in these Settlements

- In late 2021-early 2022, the Virginia Attorney General's office worked with local attorneys and outside counsel representing localities, and with numerous associations, to encourage cities and counties to participate
 - ✓ Achieved 100% participation by the 133 cities and counties
 - ✓ Resulted in a signed MOU between the cities/counties and the Commonwealth
 - ✓ Local governments had to release any separate claims against the defendants.
 - ✓ General Assembly passed a statute that closely mirrors the MOU.
- ✓ The consent judgment (ordered by the Richmond Circuit Court in April 2022) incorporates the national settlement document, the state's allocation MOU, and Virginia State Code.

Code of Virginia, Title 2.2, Chapter 22, Article 12

Established by the General Assembly in 2021

*Created the Opioid Abatement Authority as an **independent body** whose purpose is to abate and remediate the opioid epidemic in the Commonwealth through financial support from the Fund, in the form of grants, donations, or other assistance, for efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids in the Commonwealth.*

OAA Board of Directors

- Senator Todd Pillion (Chair)
- Dr. Sarah Melton (Vice Chair)
- Tim Spencer – Roanoke City Attorney (Secretary)
- Jim Holland (Treasurer)
- HHR Secretary John Littel
- Dr. James Thompson – Master Center
- Sharon Buckman – Piedmont CSB
- Daryl Washington – Fairfax CSB
- Sheriff Joe Baron – Norfolk City
- Mike Tillem – Journey House
- Delegate Jason Ballard

Who Can Receive Distributions from the OAA?

- Only organizations that are parties to the legal action can receive distributions/grants
 - ✓ Participating Subdivisions - **Cities and Counties** that have signed the Virginia Settlement Memorandum of Understanding
 - ✓ **State Agencies**

Cities, Counties, and State Agencies can partner with various organizations to provide services but they must adhere to procurement laws and must oversee the work

Settlements currently being paid to cities and counties in Virginia

✓ “Distributors” Settlement:

- McKesson Corporation
- Cardinal Health, Inc.
- AmerisourceBergen Corporation

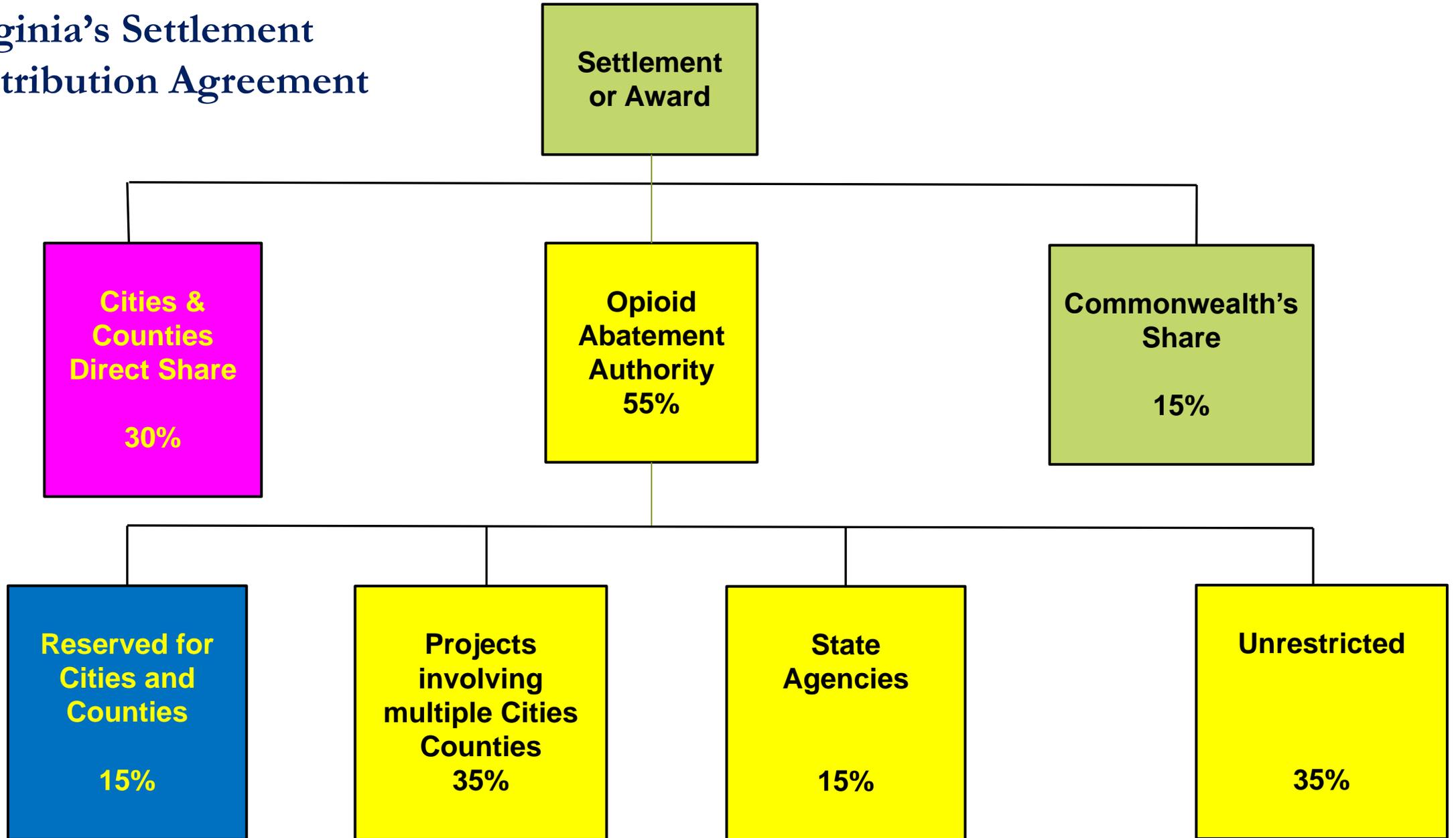
✓ Johnson and Johnson (Janssen Pharmaceuticals, Inc.)

More about the Distributors and Janssen Settlements

- Distributors will pay a maximum of \$21 billion (nationwide) over 18 years
 - Requires a minimum of 85% be used for opioid remediation (statewide)
 - *Localities must either meet 85% or 100% depending on whether they had prior litigation*
- J&J / Janssen will pay a maximum of \$5 billion (nationwide) over ten years
 - Requires a minimum of 86.5% be used for opioid remediation (statewide)

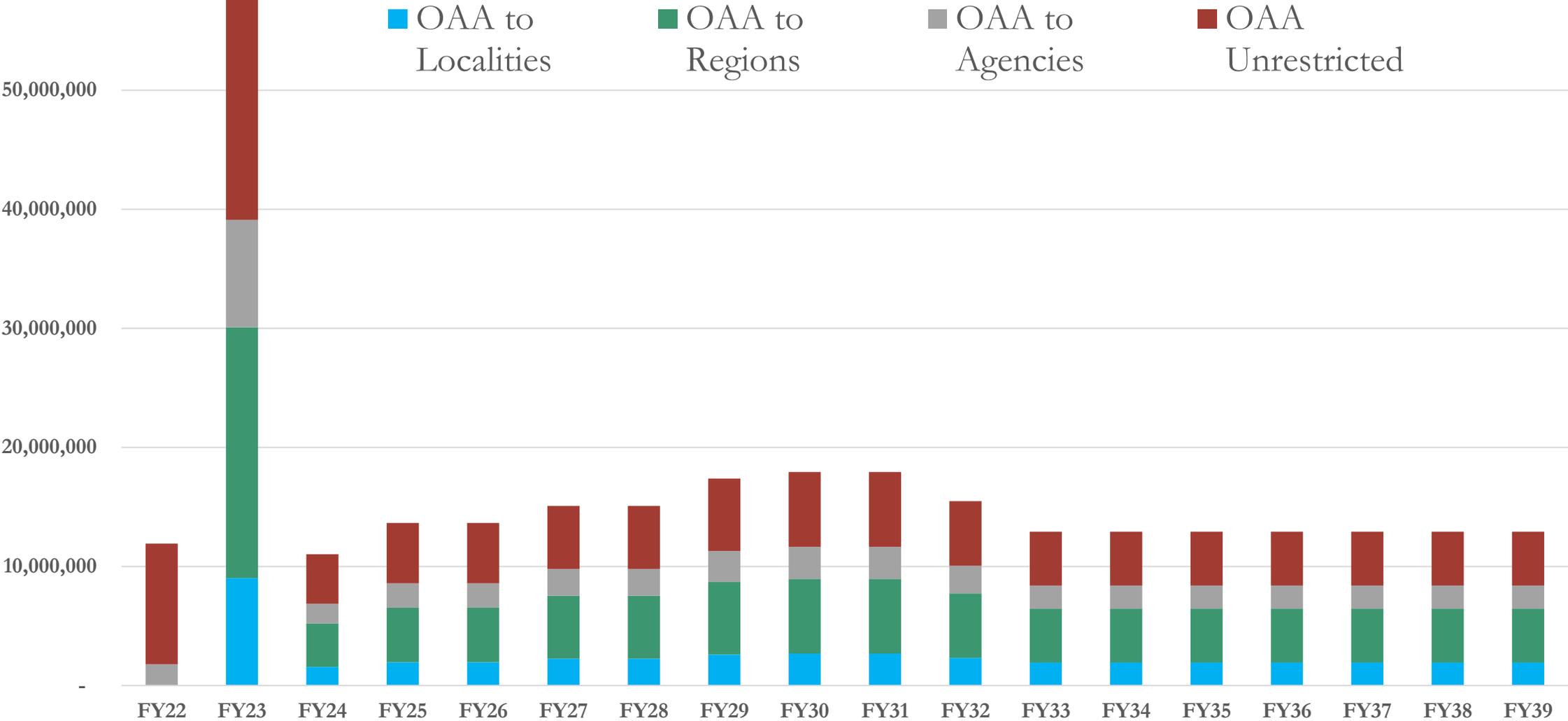
Any use of any funds for non-remediation must be reported by the city/county to the court and to the defendant.

Virginia's Settlement Distribution Agreement



Estimated OAA Settlement Distributions

for Fiscal Years 2021 through 2039



The Rules about how Direct Shares Can be used by Cities and Counties will be Different with each Settlement

- For Distributors and Janssen, all the funds are intended for “abatement” efforts – and certain percentages are required.

Distributors

- ✓ 85% statewide for abatement efforts
- ✓ 85% for each city or county that had been litigating prior to the settlement
- ✓ 100% for each city or county that had not been litigating

Janssen

- ✓ 86.5% statewide and for each city and county
- ANY funds used for any purpose other than abatement must be reported to the settlement administrator, to the settling companies, and to the general public.
- Localities may need to keep detailed records for how each dollar of each settlement is spent

Common Questions about Direct Distributions from the Distributors and Janssen Settlements

See OAG's document on "Key Provisions" – posted on OAA website.

Q: Can a portion of the funds be spent on non-abatement activities?

In some limited cases, although it is "disfavored" and requires notification to the settlement administrator, the settling companies, and the general public.

Q: Can the funds be used for the locality to reimburse itself for prior expenses?

Not clearly defined, but might be possible in some limited situations. Presents risk to the locality.

Q: Can funds replace local expenditures (supplant)?

Not clearly defined, but might be possible in some limited situations. Presents risk to the locality.

Q: How is the agreement monitored? What are the record keeping requirements?

The agreement is judicially monitored. Record keeping requirements of each settlement may vary.

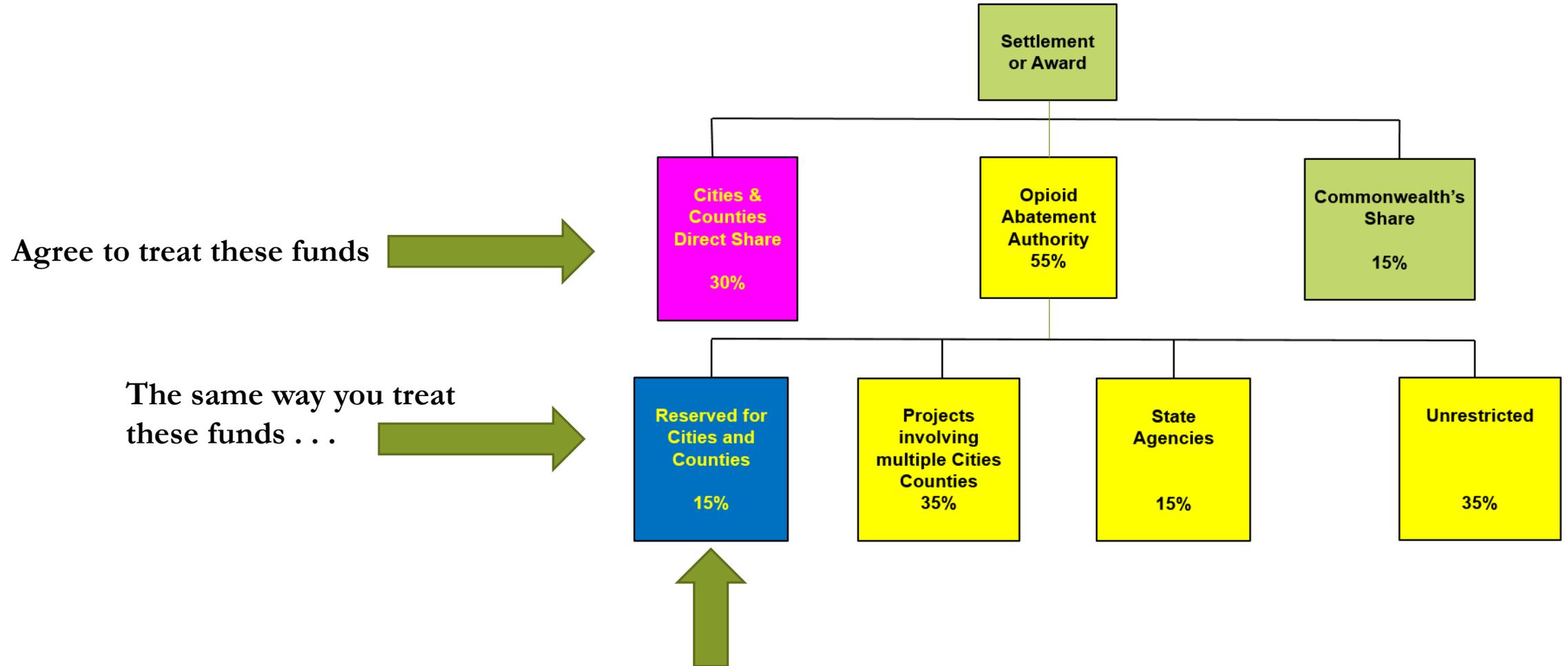
OAA Funds will have a much more clear set of rules

- 100% of the OAA's disbursements to cities, counties and state agencies must be spent on abatement efforts.
- There is no reimbursement of previous costs or supplanting allowed.
- No indirect charges allowed.
- Recipients must report outcomes to OAA on an annual basis, and allow OAA to monitor the programs.

OAA Rules are the “Gold Standard” Best Practice for Managing Opioid Funds

- OAA rules fully meet the requirements – and the intent – of the settlements.
- If a city or county chooses to apply the OAA “gold standard” rules to all of their opioid distributions, that city or county will always be in compliance with the settlements, even when there are differences in the various settlements.
- Much less administratively complex.
- Benefits the entire Commonwealth since we are all bound together in the agreements.
- OAA will be able to partner with and support the city or county if any judicial / civil questions arise.

Incentive Offer



and the OAA will increase your reserved share by 25%

A few more details about OAA funding

15% set aside for reserved distributions to each city and county.

- Formula-driven – qualifying projects will result in funding being provided according to the formula
- Cities/counties will need to apply
- OAA is offering an incentive to increase the amount of funding by 25%

35% for efforts where cities/counties are partnering with each other

- These could be either solicited or unsolicited projects
- Not formula-driven – the Board will use discretion in making these awards

15% for state agencies

- Could be solicited or unsolicited

35% will be “discretionary” and can provide additional awards by the OAA to the categories listed above

For Discretionary Awards Higher Priority Will be Given to:

1. Programs or organizations with established record of success
2. Programs in communities with a high incidence of opioid use disorder or opioid death rate, relative to population
3. Programs in a historically economically disadvantaged communities
4. Include a monetary match from or on behalf of the applicant, with higher priority given to an effort with a larger matching amount (*the match can be composed of opioid direct share funding*)

Coordination

- OAA funding and involvement provides an opportunity to ensure coordination between state agencies, local governments, CSBs, and non-governmental organizations in the delivery of opioid abatement and remediation efforts.
- Funding will reflect a statewide vision with local stakeholders driving implementation.
- Coordination with other sources of funding (i.e., Federal funds and other grants) to avoid duplication of efforts.

Timeline for the OAA

- Setting up the office and hiring staff
- Grants Committee established
- “Listening Sessions” to be held across the Commonwealth
- Conduct grant and distributions guidance to cities and counties January 19th – 20th, and begin accepting applications
 - ✓ Simultaneously roll out technical assistance
 - ✓ **Application period will close May 5, 2023**
- Grants Committee application approval initial dates (tentative) January 30th and late February (TBD)
- First round of awards by March 1 (tentative)

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